



The sole item in dispute is the disallowance of the write-off, in the period ended 4/30/69, of outstanding advances in the amount of \$600,385.71 owed to Independent by its subsidiary, Metropolis Productions, Inc. ("Metropolis").

(3) Metropolis was formed by Television Programs of America, Inc. ("Television") on February 7, 1958, with \$1,000.00 of capital stock. As of 8/31/58, the balance sheet of Metropolis indicated advances payable of \$585,546.00 to Television. In September 1958 the taxpayer purchased the entire capital stock of Metropolis, paying \$1,000.00 for the stock and reimbursing Television for the amount of outstanding advances. Independent subsequently made additional advances to Metropolis, which was engaged in the production of feature films. Independent distributed the films produced by Metropolis. Independent determined, during the period ended August 31, 1969, that outstanding advances of \$600,385.71 were uncollectible and wrote off that amount.

(4) Section 208 of the tax law reads in part:

"4. The term 'subsidiary capital' means investments in the stock of subsidiaries and any indebtedness from subsidiaries, exclusive of accounts receivable acquired in the ordinary course of trade or business for services rendered or for sales of property held primarily for sale to customers . . .

"9. (a) Entire net income shall not include:  
(1) income, gains and losses from subsidiary capital . . . "

The State Tax Commission hereby

DECIDES:

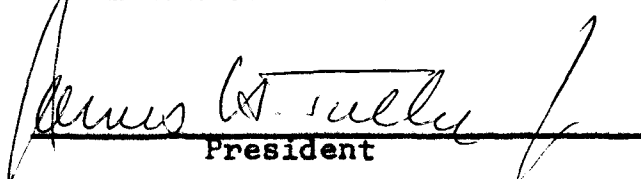
(A) Uncollectible advances from Metropolis of \$600,385.71 were subsidiary capital inasmuch as they arose from the advancement of funds and not from sales or services in the ordinary course of trade or business. Therefore, in accordance with Section 208.9(a) (1) of the tax law, such losses deducted in computing federal taxable income must be disallowed in computing entire net income.

(B) The respective tax deficiencies, and tax reduction for period ended 2/29/72, as set forth in (2) are affirmed, together with interest in accordance with Section 1084 of the tax law.

Dated: Albany, New York

this 14th Day of August 1975.

STATE TAX COMMISSION

  
President

  
Commissioner

  
Commissioner